



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF : SMITH et al.
FOR : EXPRESSION OF HETEROLOGOUS
GENES ACCORDING TO A
TARGETED EXPRESSION PROFILE
SERIAL NO. : 09/348,469
FILED : July 7, 1999
EXAMINER : Peter Paras, Jr.
ART UNIT : 1632
ATTORNEY DOCKET NO. : 78870/32932

Cleveland, Ohio 44115-1475
April 29, 2004

TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Terminal Disclaimer is responsive to the Official Communication dated April 2, 2004.

If there are any additional fees necessitated by this communication, the Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0902 of TUCKER ELLIS & WEST, LLP, referencing the Docket No. (78870/32932).

TERMINAL DISCLAIMER TO PARENT APPLICATION

The Examiner has rejected claims 22-24, 26-29, 32-34, 41-42 and 73-74 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,150,169. Accordingly, the owner, The University of Edinburgh, of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,150,169, which prior patent is also owned by The University of Edinburgh. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patents, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer. A Terminal disclaimer fee under 37 CFR 1.20(d) is included herein.

Appl. No. 09/348,469
Amdt. dated April 28, 2004
Reply to Official Communication of April 2, 2004 -
Terminal Disclaimer

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. (78870/32932).

Respectfully submitted,

Date: 4/29/09

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Appl. No. 09/348,469
Amdt. dated April 29, 2004
Reply to Official Communication of April 2, 2004 -
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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: April 29, 2004

Valerie A. Salvino
Name: Valerie A. Salvino